



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MPA - 176168

PRELIMINARY RECITALS

Pursuant to a petition filed August 13, 2016, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to modify a Medical Assistance (MA) prior authorization request for personal care worker (PCW) services, a hearing was held on September 1, 2016, by telephone.

The issue for determination is whether the agency correctly reduced the requested hours based upon a review of records and petitioner's capabilities.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

;

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: Written submission of [REDACTED], Nurse Consultant
Division of Health Care Access and Accountability
P.O. Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 23-year-old resident of Dodge County who receives MA.
2. Petitioner has cerebral palsy with spasticity, and she requires assistance with a number of activities of daily living (ADLs). She has been authorized for 40 hours per week PCW services in past authorization periods.

3. On June 13, 2016 Knapp Development requested prior authorization for 40 hours per week PCW services, PA no. [REDACTED]. The personal care screening tool allocated 35 hours per week, but the assessor requested additional time because of petitioner's spasticity causes cares to take longer, and because she needs to be repositioned multiple times daily.
4. The DHCAA has been reviewing select PCW requests more thoroughly in the past (although it is not clear, such reviews appear to be randomly selected). This particular request was one reviewed more thoroughly.
5. By a notice dated July 6, 2016, the DHCAA approved 32 hours per week PCW services. The reductions were in dressing, which was cut in half because one dressing session per day is included with bathing, and in eating assistance because petitioner is able to feed herself and meal set up is included in the calculation of services incidental to tasks.

DISCUSSION

Personal care services are "medically oriented activities related to assisting a recipient with activities of daily living necessary to maintain the recipient in his or her place of residence in the community." Wis. Admin. Code §DHS 107.112(1)(a). Covered services include the following:

1. Assistance with bathing;
2. Assistance with getting in and out of bed;
3. Teeth, mouth, denture and hair care;
4. Assistance with mobility and ambulation including use of walker, cane or crutches;
5. Changing the recipient's bed and laundering the bed linens and the recipient's personal clothing;
6. Skin care excluding wound care;
7. Care of eyeglasses and hearing aids;
8. Assistance with dressing and undressing;
9. Toileting, including use and care of bedpan, urinal, commode or toilet;
10. Light cleaning in essential areas of the home used during personal care service activities;
11. Meal preparation, food purchasing and meal serving;
12. Simple transfers including bed to chair or wheelchair and reverse; and
13. Accompanying the recipient to obtain medical diagnosis and treatment.

Wis. Admin. Code, §DHS 107.112(b).

Personal care workers can spend no more than one-third of their time performing housekeeping activities. Like all medical assistance services, PCW services must be medically necessary and cost effective. Wis. Admin. Code, §DHS 107.02(3)(e)1 and 3.

The DHCAA now utilizes a Personal Care Screening Tool, a computer program it believes will allow it to consistently determine the number of hours required by each recipient. The screening tool allots a specific amount of time in each area the recipient requires help, which the DHCAA's reviewer can then adjust to account for variables missing from the screening tool's calculations. The Department also now uses a Personal Care Activity Time Allocation Table to determine allotted times for PCW tasks, which the DHCAA follows unless the request explains specifically why additional time is necessary. The Table is found as Attachment 6 to Nurse Consultant [REDACTED]'s August 23, 2016 case summary.

As noted, the DHCAA reduced the request by 140 minutes weekly by taking out a second dressing task per day. It also took out 105 minutes per week for eating assistance. Those reductions amounted to four hours per week. The DHCAA also did not allow the additional time requested caused by petitioner's spasticity and the need for multiple transfers.

I reviewed the reasoning provided by Nurse [REDACTED] and I conclude that the reductions are reasonable. Department policy now limits dressing time to once per day for 20 minutes total. The other dressing time is included with bathing time. Petitioner testified that she does not bathe every day, but I note that bathing time is allowed every day. Although the time allocated within the screening tool is broken down to individual tasks, billing by the care worker is based upon time spent on all tasks up to the maximum authorized. Thus on days when petitioner does not bathe, there still is plenty of time allocated for morning dressing because the bathing time still is authorized. The worker can bill for total time spent on cares regardless of how much time she spends on each individual care.

Petitioner also testified she needs meal set up. As noted, meal set up is included in services incidental to the tasks. Eating assistance time is allowed only if the person needs hands-on assistance to eat.

Transfers were allocated by the DHCAA at 45 minutes daily, which is the maximum time allowed and typically is allowed in unusual circumstances only. Finally, there is insufficient documentation of the extra time needed due to spasticity; the screening tool does not note a need for extra time due to "behaviors" or unique medical conditions.

I note finally that if the caregiver truly cannot complete cares within the allocated time, the provider can always request an amendment showing the specific needs that cannot be addressed.

CONCLUSIONS OF LAW

The DHCAA correctly determined the petitioner required 32 hours per week PCW services.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 9th day of September, 2016

\s _____
Brian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 9, 2016.

Division of Health Care Access and Accountability